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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,961	02/18/2004	Guido Bonelli	9534	2314

27752 7590 11/14/2005

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CINCINNATI, OH 45224

EXAMINER
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CHAPMAN, GINGER T

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/780,961	<b>Applicant(s)</b> BONELLI ET AL.	
	<b>Examiner</b> Ginger T. Chapman	<b>Art Unit</b> 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/18/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Group I with claims 1-9 in the reply filed on 28 October 2005 is acknowledged. Claims 10-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 28 October 2005.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Redwine et al (US 5,891,121).

Claim 1. As seen in Figures 1 and 16, Redwine et al disclose a disposable absorbent article (20) having one or more side flaps or wings (50), comprising: (a) a fluid-pervious topsheet (38), a fluid-impervious backsheet (40) opposing said topsheet (38), and an absorbent core (42) disposed between said topsheet and said backsheet, said article having a longitudinal direction and a transverse direction perpendicular thereof (col. 6, ll. 24-34); (b) said one or more wings (50) extending in said transverse direction (col. 7, ll. 53-54) and comprising at least one corrugated region (56) including a multiplicity of ridges and recesses ((59): col. 19, l. 35), said ridges rising toward a garment-facing surface of said article and having glue strips (44) attached to crests of said ridges (col. 14, ll. 18-20); and (c) a release material for covering said at least one corrugated region, said release material contacting said glue strips (col. 14, ll. 23-25).

Claim 2. Redwine et al disclose the article (20) is a catamenial napkin for absorbing menses or an incontinence pad for absorbing urine (col. 1, l. 28).

Claim 3. Redwine et al disclose the multiplicity of ridges and recesses extend in a direction perpendicular to said longitudinal direction.

Claim 4. Redwine et al disclose the multiplicity of ridges and recesses (59) extend in a direction parallel to said longitudinal direction (col. 19, ll. 35-36: fig. 13).

Claim 5. Redwine et al disclose the multiplicity of ridges and recesses (59) extend in a direction forming an angle with said longitudinal direction, said angle being greater than 0 degrees and less than 90 degrees (fig. 16).

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redwine et al.

Claims 7 and 8. Redwine et al disclose the ridges and recesses but do not expressly disclose pitch ranging from about 1 mm to about 5 mm and height ranging from about 1 mm to about 6 mm. Redwine et al, at column 18, ll. 53-54 disclose that the height and number of ridges and recesses can be varied to control the applied force required to extend the corrugated regions comprising the ridges and recesses, i.e., for the wearer of the article to fold the side flaps/wings underneath the crotch region of the wearer's undergarment. Redwine et al further disclose at column 19, ll. 8-13 that the available stretch or elongation require to fold the flaps is increased if either the height or degree of deforming the ridges and recesses is increased and if, for a given height or degree of deformation, the number or frequency of ridges and recesses is increased. In view of the teachings of Redwine et al, the pitch and height of the ridges and recesses are parameters that can be varied to effect the force required to fold the flaps and discovering the optimum values of pitch and height in the known process of forming the ridges and recesses would be within the routine skill of an ordinary worker in the art at the time the invention was made. Therefore, to form the ridges and recesses of Redwine et al having pitch ranging from about 1 to about 5 mm and height ranging from about 1 to about 6 mm would have been obvious to one having ordinary skill in the art at the time the invention was made, since it has been held

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that discovery of optimum values of result effective variable is a known process is within the skill of an ordinary worker in the art and thus would be obvious. In re Boesch and Slaney, 205 USPQ 215, 617 F.2d 272 (CCPA 1980).

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redwine et al in view of Chappell et al (US 5,518,801).

Claim 6. Redwine et al disclose the ridges and recesses but do not expressly depict the ridges and recesses extending in different directions. Chappell et al, at column 19, lines 44-48 teaches the ability of the corrugated regions to include ridges and recesses extending in a direction that is different from the ridges and recesses of a second corrugated region thus disclosing the desire and motivation for the corrugated regions' ridges and recesses to extend in different directions. As seen in Figure 31, Chappell teaches the article having first regions (222) and second regions (224) each extending in different directions. In view of the teachings of Chappell et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the corrugated regions of Redwine having ridges and recesses extending in different directions as taught by Chappell since Chappell et al state at column 19, lines 46-48 that the article is thereby able to exhibit stretch in different directions and thus better conform to the wearer's undergarment and stay in place even when the wearer moves (col. 1, ll. 48-50).

Claim 9. Redwine et al disclose the corrugated regions but do not expressly disclose the backsheet comprising at least one corrugated region. Chappell et al, at column 1, lines 35-50 expresses the desire and motivation for the article to better conform to the wearer's

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undergarment and stay in place even when the wearer moves. As seen in Figure 31, Chappell et al teach the backsheet (220) comprising at least one corrugated region (222, 224). Chappell states that the advantage of making the article with this design is that the backsheet is able to exhibit stretch in different directions. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the backsheet of Redwine comprising a corrugated region as taught by Chappell since Chappell et al state at column 1, lines 48-50 that this permits the article to better conform to the wearer's undergarment and stay in place when the wearer moves.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McFall et al (US 5,993,431) discloses the napkin (20) having flaps (24) with corrugated regions (44, 46, 48) extending in different directions (fig. 1) with glue strips (82) and release material (84).

Mills et al (US 6,383,169) discloses the article (20) having flaps (24) with corrugated regions (70) having ridges and recesses (72) and glue strips (76) and release material (78).

Carvalho (US 6,500,159) discloses a sanitary napkin (10) that is corrugated (fig. 1).

Although these references are pertinent prior art, neither was used to reject any claims in the first office action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman  
Examiner, Art Unit 3761  
11/04/05

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**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

